

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MDA MANUFACTURING, INC.,

Plaintiff,

-v-

MEXICHEM FLUOR COMERCIAL S.A. DE C.V.,

Defendant.

20 Civ. 3835 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On January 25, 2021, plaintiff filed a motion to dismiss the defendant's counterclaims under Rule 12 of the Federal Rules of Civil Procedure and to strike certain of defendant's affirmative answers. Under Rule 15(a)(1)(B), a party has 21 days after the service of a motion under Rule 12(b) to amend the pleading once as a matter of course.

Accordingly, it is hereby ORDERED that defendant shall file any amended counterclaims by February 15, 2021. No further opportunities to amend will ordinarily be granted. If defendant does amend, by March 8, 2021, plaintiff shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying defendant, stating that they rely on the previously filed motion to dismiss.¹

It is further ORDERED that if no amended counterclaims are filed, defendant shall serve any opposition to the motion to dismiss by February 15, 2021. Plaintiff's reply, if any, shall be served by March 1, 2021. At the time any reply is served, the moving party shall supply the

¹ If plaintiff files a new motion to dismiss or relies on its previous motion, defendant's opposition will be due 14 days thereafter, and plaintiff's reply, if any, will be due seven days after that.

Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to EngelmayerNYSDChambers@nysd.uscourts.gov.

The Court will determine later, after receipt of defendant's anticipated brief opposing a motion to dismiss the current or amended counterclaims, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: January 26, 2021
New York, New York